

Application No. 10/084765
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Amendment
Attorney Docket No. S63.2N-7311-US02

Remarks

This Amendment is in response to the Office Action dated **December 29, 2003**, wherein claims 1 and 30-32 were rejected under the judicially created doctrine of double patenting; claims 1 and 30 were rejected under 35 U.S.C. 102(e) as being anticipated by U.S. 5,989,280 to Euteneur et al (Euteneur); and claims 31 and 32 were rejected under 35 U.S.C. 102(b) as being anticipated by U.S. 5,403,341 to Solar.

Initially Applicants note that claims 1 and 30-32 have been amended to include at least one therapeutic agent. Furthermore new claims 33-44 have been added to recite some specific examples of therapeutic agents. The amendments contained herein include now new matter and the subject matter is fully supported by the specification as originally filed (see page 12 generally).

The following comments are presented in the same order and with headings corresponding to the Office Action.

Double Patenting

In the Office Action claims 1 and 30-32 were rejected under the judicially created doctrine of double patenting. In response Applicant submits herewith a terminal disclaimer under 37 CFR 1.321(C) signed by Applicant's representative.

Claim Rejections – 35 USC §102

In the Office Action claims 1 and 30 were rejected under §102(e) as being anticipated by Euteneur. In response Applicant notes that in Euteneur the water soluble bands 18 and/or 60 do not comprise a coating and particularly do not comprise a coating of at least one therapeutic agent as the instant claims recite. As a result the rejection is respectfully overcome.

The Office Action also rejected claims 31 and 32 under §102(b) as being anticipated by Solar. As indicated above the instant claims have been amended to recite that at least a portion of the tubular section comprises at least one therapeutic agent. Solar fails to teach the use of any therapeutic agents. As a result the rejection is respectfully overcome.

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Conclusion

In view of the foregoing it is believed that the present application, with claims 1 and 30-44 is in condition for allowance. Early action to that effect is earnestly solicited.

Respectfully submitted,

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